

Washington DC (June 7, 2012)—In light of public statements today by Oversight Committee Chairman Darrell Issa that he never issued a subpoena to the Justice Department demanding copies of wiretap applications relating to Operation Fast and Furious, Ranking Member Elijah E. Cummings issued the following statement:

“The Chairman has been demanding these wiretap applications for months and even threatened to hold the Attorney General in contempt for not providing them, yet today he claimed he never wanted them in the first place. It makes no sense to hold the Attorney General in contempt for withholding documents that Chairman Issa claims he never requested. These changing demands raise fundamental questions about the investigation and suggest that it is designed to promote an election-year political agenda rather than obtain needed information.”

During a hearing today with Attorney General Eric Holder, Chairman Issa tried to backtrack from his previous demands for wiretap applications relating to Operation Fast and Furious by stating: “We did not request any wiretaps under seal.” Explaining the basis for his claim, he argued: “I’m the person who signed the subpoenas.”

In contrast, on May 3, 2012, Chairman Issa publicly released a draft [Contempt Citation](#), arguing that the Attorney General should be held in contempt of Congress because he “refused to comply with Congressional subpoenas related to Operation Fast and Furious.” The Contempt Citation explicitly cites the Attorney General’s failure to turn over the wiretap applications that Chairman Issa subpoenaed:

“The wiretap applications document the extensive involvement of the Criminal division in Fast and Furious, yet the Department of Justice failed to produce them in response to the Committee’s subpoena.”

Moreover, the Chairman and his staff have been demanding copies of the wiretap applications for more than a year in correspondence with the Department, and the Department has made clear repeatedly, including in letters on [June 14, 2011](#), [February 1](#), 2012, and [May 15, 2012](#), that federal law prohibits it from doing so and that such disclosures could compromise ongoing investigations and prosecutions like that of Border Patrol Agent Brian Terry’s murderers.

For example, in his letter to Chairman Issa on May 15, 2012, Deputy Attorney General James Cole wrote:

“As the Committee knows well, the sealing and disclosure of materials relating to electronic intercepts authorized under federal law are governed by a federal statute and a court sealing order, both of which prohibit the Department from disclosing the materials that the Committee seeks. Indeed, disclosure of these materials in violation of these provisions, including by Department personnel to the Committee, is punishable as a criminal offense.”

The federal wiretapping statute, which was passed by Congress and signed by President Lyndon B. Johnson on June 19, 1968, provides for up to five years in prison for the unauthorized disclosure of wiretap communications. The statute also prohibits the unauthorized disclosure of wiretap applications made by law enforcement officials to federal judges, who must seal them to protect against their disclosure. The statute states:

“Each application for an order authorizing or approving the interception of a wire, oral, or electronic communication under this chapter shall be made in writing upon oath or affirmation to a judge of competent jurisdiction. ... Applications made and orders granted under this chapter shall be sealed by the judge.”

It remains unclear whether Chairman Issa will withdraw the Contempt Citation based on his statements today.